

REMARKS/ARGUMENTS

Claims 1-15 are pending in the present application. In the Office Action mailed September 27, 2006, the Office Action rejected claims 1, 3, 5-7, 13 and 15 under 35 U.S.C. § 102. The Office Action also rejected claims 2, 4-6, 8-12 and 14 under 35 U.S.C. § 103. Claims 1-4, 7-9 and 12-15 have been amended.

Reconsideration is respectfully requested in view of the above amendments to the claims and the following remarks.

I. Claims 1, 3, 5-7, 13 and 15 Rejected Under 35 U.S.C. § 102(a)/102(e)

The Office Action rejected claims 1, 3, 5-7, 13 and 15 under 35 U.S.C. § 102(a)/102(e) as being anticipated by U.S. Patent No. 6,074,434 to Cole et al. (hereinafter, “Cole”). This rejection is respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the ... claim.” Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, “the reference must be enabling and describe the applicant’s claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.” In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the claims at issue are patentably distinct from Cole. Cole does not disclose all of the limitations in these claims.

Claim 1 has been amended to recite “the adapter comprising . . . communications hardware for communicating automatically with the provider computer through the wireless network,” and “memory programmed to cause the adapter to send an identification of the adapter to the provider computer via the wireless network and to receive new data sent by the provider computer via the

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wireless network.” Support for this amendment may be found in Applicants’ specification, page 5, lines 6-11.

Cole does not disclose this claim element. In fact, the Office Action admits that Cole does not disclose this claim element. The Office Action states “Cole above teaches the invention except for a wireless link between the provider computer and the adapter.” See Office Action, page 5.

In view of the foregoing, Applicants respectfully submit that claim 1 is patentably distinct from Cole. Accordingly, Applicants respectfully request that the rejection of claim 1 be withdrawn.

Claims 3 and 5-7 depend directly from claim 1. Accordingly, Applicants respectfully request that the rejection of claims 3 and 5-7 be withdrawn for at least the same reasons as those presented above in connection with claim 1.

Claim 13 has been amended to recite “the adapter comprises . . . communications hardware for communicating automatically with the provider computer through a wireless network . . . establishing communications with the provider computer through the wireless network; sending an identification of the adapter to the provider computer via the wireless network; receiving new instructions from the provider computer through the wireless network.” Support for this amendment may be found in Applicants’ specification, page 5, lines 6-11.

Cole does not disclose this claim element. In fact, the Office Action admits that Cole does not disclose this claim element. The Office Action states “Cole above teaches the invention except for a wireless link between the provider computer and the adapter.” See Office Action, page 5.

In view of the foregoing, Applicants respectfully submit that claim 13 is patentably distinct from Cole. Accordingly, Applicants respectfully request that the rejection of claim 13 be withdrawn.

Claim 15 has been amended to recite “the adapter comprising . . . means for communicating automatically with the provider computer through the wireless network; means for sending an identification of the adapter to the provider computer via the wireless network; and means for causing the adapter to receive new instructions sent by the provider computer through the wireless network.” Support for this amendment may be found in Applicants’ specification, page 5, lines 6-11.

Cole does not disclose this claim element. In fact, the Office Action admits that Cole does not disclose this claim element. The Office Action states “Cole above teaches the invention except for a wireless link between the provider computer and the adapter.” See Office Action, page 5.

In view of the foregoing, Applicants respectfully submit that claim 15 is patentably distinct from Cole. Accordingly, Applicants respectfully request that the rejection of claim 15 be withdrawn.

II. Claims 2, 4-6, 8-12 and 14 Rejected Under 35 U.S.C. § 103(a)

The Office Action also rejected claims 2, 4-6, 8-12 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Cole. This rejection is respectfully traversed.

The M.P.E.P. states that

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan

would have found the claimed invention to have been obvious in light of the teachings of the references.

M.P.E.P. § 2142.

Applicants respectfully submit that the claims at issue are patentably distinct from the cited reference. The cited reference does not teach or suggest all of the limitations in these claims.

Claim 8 has been amended to recite “the adapter comprising . . . communications hardware for communicating automatically with the provider computer through the wireless network, wherein the communications pathway between the communications hardware and the provider computer includes a wireless link.” Support for this amendment may be found in Applicants’ specification, page 5, lines 6-11.

Cole does not teach or suggest these claim elements. In fact, the Office Action admits that Cole does not teach this claim element. The Office Action states “Cole above teaches the invention except for a wireless link between the provider computer and the adapter.” See Office Action, page 5.

In view of the foregoing, Applicants respectfully submit that claim 8 is patentably distinct from the cited references. Accordingly, Applicants respectfully request that the rejection of claim 8 be withdrawn.

Claims 9-12 depend either directly or indirectly from claim 8. Accordingly, Applicants respectfully request that the rejection of claims 9-12 be withdrawn for at least the same reasons as those presented above in connection with claim 8.

In the present case, claims 2 and 4-6 depend from claim 1 and therefore include all the limitations of this independent claim such as “communications hardware for communicating automatically with the provider computer through the wireless network.” As previously explained, such limitation is not taught or suggested in Cole. Accordingly, because Cole does not teach or suggest all of the limitations found in claims 2 and 4-6, this reference does not render the present claims *prima facie* obvious under 35 U.S.C. § 103(a). Applicants respectfully request that the rejection of claims 2 and 4-6 be withdrawn.

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In the present case, claim 14 depends from claim 13 and therefore includes all the limitations of this independent claim such as “communications hardware for communicating automatically with a provider computer through a wireless network.” As previously explained, such limitation is not taught or suggested by Cole. Accordingly, because Cole does not teach or suggest all of the limitations found in claim 14, this reference does not render the present claims *prima facie* obvious under 35 U.S.C. § 103(a). Applicants respectfully request that the rejection of claim 14 be withdrawn.

III. Double Patenting Rejection of Claims 1-15

The Office Action rejected claims 1-15 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over co-pending U.S. Application No. 11/174,140 to Michael L. Howard et al. in view of Cole. Applicant herewith files a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) to overcome this rejection. The terminal disclaimer is enclosed.

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IV. Conclusion

Applicants respectfully assert that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,



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